

NEW HAMPSHIRE LEGAL ASSISTANCE  
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**HAND-DELIVERED**

April 25, 1995

Lucy C. Hodder, Esq.  
Civil Law Bureau  
Office of the Attorney General  
25 Capitol Street  
Concord, NH 03301-6397

RE: Garrity v. Merrill

Dear Ms. Hodder:

Our clients, parents and guardians of Garrity class members, remain concerned about the cuts contained in the Department of Health and Human Services' budget. They understand that as a result of the executive and administrative orders, the FY95 cumulative lapse in developmental disability funds exceeded 10%. HB 1-A requires an additional cut greater than 8% for FY96 (footnotes 11 and 15); however, because HB 3, the supplemental budget is not included in the budget base of HB 1-A, the cuts are even deeper. Combined with still further unspecified cuts to the Division of Mental Health and Developmental Disability in HB 55, the FY96 budget proposals severely threaten the Division's ability to deliver the quality and quantity of services Judge Devine ordered.

In the trial and remedial orders concerning the conditions at the Laconia State School and since then, Judge Devine has ruled upon and commented about the state's duty to adequately fund services for the Garrity class members. In our December 16 letter, we noted the defendants' duty not even to recommend budget cuts to court-ordered services for Garrity class members. The courts' protections extended not only to individual plans for each class members'

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residential, medical and day programs, including recreation, but also to a statewide area agency system to do needs assessments, services development and monitoring and to work with family members and guardians.

Our clients have learned that DMHDS has been decreasing area agency budgets to meet the budget shortfalls. Since the residential and day program services are contracted through the area agencies, our clients fear that these budget cuts will inevitably eliminate required services. They know that cutting these services can lead to homelessness or reinstitutionalization.

After our meeting in your office and in subsequent legislative hearings, the Governor assured our clients that additional funds would be marked to provide for RSA 171:B services. The Association for Retarded Citizens and the parents are now even more concerned that the 171:B services will dilute services to Garrity class members and other community residents. Already the area agencies have been forced to lapse funds to pay for 171:B services. Now that the costs of implementing 171:B services to non-Garrity members appear to have been lumped in with Garrity services, parents fear that services needed for Garrity class members will be eroded.

Once more, the parents request from the defendants written assurances that:

1. The funds lapsed for FY95 will be restored.
2. There will be no recommendations to the legislature or fiscal committee for FY96 or 97 budget cuts or reductions to eliminate or reduce services to Garrity class members.
3. Budget requests for Garrity compliance will be separated from those for 171:B in order for parents to monitor and be reassured that the State is not burdening the Garrity delivery system with other legislative programs.

Our clients' earlier concern that there be a free flow of information without formal discovery is now acute. Governor Merrill has publicly stated that the areas likely to be cut to address the larger deficits include cuts across

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the board, including the Division of Mental Health. We ask your clients to assure that the Garrity services will be protected from such reductions.

Please provide a response from your clients no later than May 1, 1995.

Sincerely,



Abigail Turner  
John D. MacIntosh  
Attorneys for Plaintiffs

AT/kmd

cc: The Honorable David P. Currier, Chair  
Senate Finance Committee  
The Honorable Channing T. Brown, Chair  
House Finance Committee  
The Honorable Clesson J. Blaisdell, Vice Chair  
Senate Finance Committee  
The Honorable Thomas P. Colantuono  
Senate Finance Committee  
The Honorable Bruce W. Keogh  
Senate Finance Committee  
The Honorable George A. Lovejoy  
Senate Finance Committee  
The Honorable John S. Barnes  
Senate Finance Committee  
The Honorable Eleanor P. Podles  
Senate Finance Committee  
Ray Blodgett, Chair  
Association for Retarded Citizens  
Freda Smith, Board Member  
Association for Retarded Citizens